

FILE

Patent  
247/062

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Tsugita et al.

Serial No.: 09/467,293

Filed: December 17, 1999

For: BALLOON OCCLUSION DEVICE  
AND METHODS OF USE

Group Art Unit: 3763

Examiner: M. Mendez

**REQUEST TO REVERSE HOLDING OF ABANDONMENT  
UNDER MPEP §711.03(e)**Commissioner for Patents  
Washington, D.C. 20231

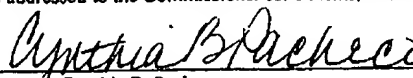
Sir:

Applicants thank the Examiner for taking time to discuss this application on January 2, 2002. On November 14, 2001, Applicants submitted a Response to the Office Action dated May 18, 2001, along with a petition and fee for three-month extension of time. Copies of these materials are enclosed. Receipt by the Patent Office on November 14, 2001, was acknowledge by return postcard (copy enclosed). A Notice of Abandonment was mailed in error on December 1, 2001.

The above facts were explained to the Examiner during the telephone discussion on January 2, 2002. The Examiner asked that Applicants submit this communication to complete the record of the above application.

## CERTIFICATE OF MAILING (37 C.F.R. §1.10)

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as First Class Mail in an envelope addressed to the Commissioner for Patents, Washington, D.C. 20231.

January 2, 2002  
Date of Deposit  
Cynthia B. Pacheco

Patent  
247/062

Applicants believe that no fees are required in connection with this communication. However, the Commissioner is hereby authorized to charge any additional fees, which may be required, to Deposit Account No. 12-2475.

Respectfully submitted,

LYON & LYON LLP

Dated: January 2, 2002

By: John Kappos

John Kappos

Reg. No. 37,861

Attorneys for Applicants

JCK/cp  
633 West Fifth Street, Suite 4700  
Los Angeles, California 90071-2066  
(949) 567-2300 or (213) 489-1600

Patent US 301C4  
Attorney Docket: 244,610-155  
(formerly 247/062)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Tsugita et al.

Serial No.: 09/467,293

Filed: December 17, 1999

For: BALLOON OCCLUSION DEVICE  
AND METHODS OF USE

Group Art Unit: 3763

Examiner: M. Mendez

STATUS INQUIRY

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

No office action or other communication on the above application has been received since the return postcard indicating receipt of the Request to Reverse Holding of Abandonment under MPEP §711.03(e), stamped as received by the PTO on January 29, 2002, more than 18 months ago. A copy of the January 29, 2002 submission is enclosed. Applicant respectfully requests to be informed of the status of the application. Please direct your response to the undersigned.

Respectfully submitted,  
O'MELVENY & MYERS LLP

Dated: July 1, 2003

By: John Kappos  
John Kappos, Reg. No. 37,861  
Attorneys for Applicant

JCK/DKW/cp



34263

PATENT TRADEMARK OFFICE

O'Melveny & Myers LLP  
114 Pacifica, Suite 100  
Irvine, CA 92618-3315  
(949) 737-2900

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July 1, 2003  
Date of Deposit  
IR1:1045118.1

Cynthia B. Pacheco  
Cynthia B. Pacheco

**O'MELVENY & MYERS LLP**

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**FAX TRANSMITTAL****DATE & TIME:**

Monday, July 21, 2003, 1:01 PM

**TOTAL NUMBER OF PAGES:**

12

**TO:**

Examiner M. Mendez  
U.S. Patent Office, Art Unit 3763

**FAX NUMBER:**

(703) 746-9251

**TELEPHONE NUMBER:**

(703) 308-2221

**FROM:**

John Kappos, Reg. No. 37,861

**RETURN FAX NUMBER:**

(949) 737-2300

**TELEPHONE NUMBER:**

(949) 737-2900

**MESSAGE**

Re: Tsugita et al.

U.S. Application Serial No. 09/663,292

Attorney Docket No. 244,610-155

(formerly docket 247/062)

**Document(s) attached:**

- Response to Office Action mailed 11/14/01 (with receipt verification postcard) – 6 pages
- Request to Reverse Holding of Abandonment Under MPEP §711.03(e) mailed January 2, 2002 (with receipt verification postcard) – 3 pages
- Status Inquiry (with receipt verification postcard) – 2 pages

**IF YOU DID NOT RECEIVE ALL PAGES, PLEASE CALL OUR FAX DEPARTMENT AT (949) 737-2981.**

**FILE NO.:** 244,610-155  
**USER NO.:** 13362  
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**SPECIAL INSTRUCTIONS:**

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Applicant: TSUGITA et al.

Attorney: BLS/cp

Serial No.: 09/467,293

Docket No.: 247/062

For: BALLOON OCCLUSION DEVICE AND METHODS OF USE

Please acknowledge receipt of the following by affixing hereon the Patent and Trademark Office date stamp and returning this card to our office.

**Enclosures:**

1. Response to Office Action and Petition for Extension of Time
2. Payment: \$960.00 (check no. 3596)
3. Receipt verification postcard



Date of Deposit: November 14, 2001  
Express Mail Label No. EL622502836US

Patent  
247/062

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Tsugita et al.

Serial No.: 09/467,293

Filed: December 17, 1999

For: BALLOON OCCLUSION DEVICE  
AND METHODS OF USE

Group Art Unit: 3763

Examiner: M. Mendez

**RESPONSE TO OFFICE ACTION  
AND PETITION FOR EXTENSION OF TIME**Commissioner for Patents  
Washington, D.C. 20231

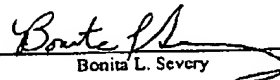
Sir:

**PETITION FOR EXTENSION OF TIME**

Applicant hereby petitions for a three-month extension of time to respond to the Office Action mailed May 18, 2001, in connection with the above-identified application. If additional extension of time is required, please consider this a petition therefor. Our check (no. 3596) for \$960.00 is enclosed in payment. The Commissioner is hereby authorized to charge all additional fees that may be required in filing these documents to Deposit Account No. 12-2475.

## CERTIFICATE OF MAILING (37 C.F.R. §1.10)

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EL622502836US  
Express Mail Label No.November 14, 2001  
Date of Deposit  
Bonita L. Severy

Patent  
247/062

### **RESPONSE TO OFFICE ACTION**

In response to the Office Action mailed May 18, 2001, please consider the following.

### **REMARKS**

Reconsideration of the rejections set forth in the Office Action dated May 18, 2001, is respectfully requested.

The Examiner rejected claims 19 and 23-28 under 32 U.S.C. 102(b) as being anticipated by Barbut, et al., U.S.P.N. 5,769,816. Applicant calls the Examiner's attention to the reference date of the cited art, which is June 23, 1998, the issue date of the patent. Applicant attaches the filing receipt for the pending application as Exhibit A. Referring to Exhibit A, the present application is a CPA of U.S.S.N. 09/467/293, filed December 17, 1999, which is a continuation of U.S.S.N. 09/387,634, now U.S.P.N. 6,176,851, filed August 31, 1999, which is a continuation of U.S.S.N. 08/993,202, now U.S.P.N. 6,048,331, filed December 18, 1997, which is a continuation-in part of U.S.S.N. 08/854,806, now U.S.P.N. 6,231,544, filed May 12, 1997, which is a continuation-in part of U.S.S.N. 08/645,762, now abandoned, filed May 14, 1996.

Applicant respectfully asserts that the Examiner's rejection is improper for a 102(b) rejection, because the reference date of the art cited does not predate the effective date of the application by at least a year. Setting aside, for the moment, the continuations-in-part in the domestic priority lineage, the present application is at least entitled to a filing date of December 18, 1997, the earliest date from which priority is claimed through continuations. (Earlier dates are claimed through continuations-in-part, the analysis of which is not required for the purposes of responding to this Office Action.) Thus, the effective date of the present application is at least as early as December 18, 1997, which predates the reference date of the cited art, June 23, 1998.

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For the reasons listed above, the art cited by the Examiner cannot stand as a 102(b) reference to the present application. Thus, Applicant respectfully requests reconsideration and favorable action on the merits of the claims of this Continuing Prosecution Application. The Commissioner is hereby authorized to charge any additional fees, which may be required, to Deposit Account No. 12-2475.

Respectfully submitted,

LYON & LYON LLP

Dated: November 14, 2001

By: Bonita L. Severy

Bonita L. Severy  
Reg. No. 43,913  
Attorneys for Applicants

BLS/cp  
633 West Fifth Street, Suite 4700  
Los Angeles, California 90071-2066  
(949) 567-2300 or (213) 489-1600





## UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
WASHINGTON, D.C. 20231  
www.uspto.gov

APPLICATION NUMBER	FILING DATE	GRP ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	DRAWINGS	TOT CLAIMS	IND CLAIMS
09/467,293	12/17/1999	3763	443	247/062	20	27	2

CONFIRMATION NO. 2206

22249  
LYON & LYON LLP  
633 WEST FIFTH STREET  
SUITE 4700  
LOS ANGELES, CA 90071

## CORRECTED FILING RECEIPT



\*000000006875704\*

Date Mailed: 10/09/2001

Receipt is acknowledged of a CPA in this nonprovisional Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Customer Service Center. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).

## Applicant(s)

ROSS S. TSUGITA, MOUNTAIN VIEW, CA;  
TRACY D. MAAHS, SANTA CLARA, CA;

## Domestic Priority data as claimed by applicant

THIS APPLICATION IS A CON OF 09/387,634 08/31/1999 PAT 6,176,851  
WHICH IS A CON OF 08/993,202 12/18/1997 PAT 6,048,331  
WHICH IS A CIP OF 08/854,806 05/12/1997 PAT 6,231,544  
WHICH IS A CIP OF 08/645,762 05/14/1996 ABN

## Foreign Applications

If Required, Foreign Filing License Granted 02/03/2000

CPA filed on: 02/20/2001

Projected Publication Date: 01/17/2002

Non-Publication Request: No

Early Publication Request: No

\*\* SMALL ENTITY \*\*

Title

RECEIVED  
OCT 15 2001  
U.S. PROSECUTION

**BALLOON OCCLUSION DEVICE AND METHODS OF USE****Preliminary Class****604**

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Applicant: TSUGITA et al.

Attorney: JCK/DKW/cp

Serial No.: 09/663,292

Docket No.: 244,610-155

For: BALLOON OCCLUSION DEVICE AND METHODS OF USE

247/062

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IR1:1045122.1 First Class mail

Applicant: TSUGITA et al.

Attorney: JCK/DKW/cp

Serial No.: 09/663,292

Docket No.: 244,610-155

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Date of Deposit: July 1, 2003

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Applicant: TSUGITA et al. Attorney: JCK/cp  
Serial No.: 09/467,293 Docket No.: 247/062  
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3. COPY of receipt verification postcard from November 14, 2001 deposit
4. Receipt verification postcard

Date of Deposit: January 2, 2002  
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